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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/601,311	08/04/2000	Yoshihiro Ishikawa	195466US2PCT	8290
22850	7590	03/30/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			NGUYEN, STEVEN H D	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

**Application No.**

09/601,311

**Applicant(s)**

ISHIKAWA, YOSHIHIRO

**Examiner**

Steven HD Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to election/restriction arguments***

1. The restriction office action which is mailed on 12/30/03, is withdrew because the limitation of the groups of the claims are almost identical. However, the applicant has canceled the claims 6-15. The examiner requests the application, resubmitting the canceled claims 6-16 by adding a new set of claims.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Wallentin (USP 6347091).

Wallentin discloses a traffic control for base station, mobile and method for mobile data communications in a mobile communication system of a scheme using spread signals including CDMA, where two types of communication channels including a common channel and a plurality of individual channels are provided such that the common channel is set to be used by a plurality of users together and each individual channel is set to be used exclusively by one user, the traffic control method for mobile data communications characterized by carrying out a communication using the common channel (Col. 2, lines 44-45, shared channel) and the

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individual channel (Col. 2, lines 42-44, dedicated channel), between a mobile radio terminal (Fig 2, Ref 30) and a radio base station (Fig 2, Ref 28); and carrying out an admission judgment for a shift from the common channel to the individual channel at the radio base station or the mobile radio terminal, when a communication traffic at the mobile radio terminal is shifting from a sparse state to a dense state during the communication (Fig 10, Ref 70 of base station and Ref 80 of the mobile are a connection state selector "CSS" for controlling the admission of communication data into the shared channel or the dedicated channel by switching between them when the communication data changes from slow flow to fast flow, See col. 5, lines 43 to col. 6, lines 45, col. 9, lines 39-48).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallentin in view of the admitted prior arts.

Wallentin discloses the admission judgment for the shift from the common channel to the individual channel is carried out, at the radio base station according to information on an uplink interference amount which is an amount of received interferences and/or a downlink transmission power level which is a power level transmitted from the radio base station, or at the mobile radio terminal by receiving information on the uplink interference amount that is

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transmitted from the radio base station and according to the received information on the uplink interference amount (Fig 11, col. 11, lines 54-66, col. 12, lines 5-17, 33-55, The CSS Radio and mobile of Fig 10, switch the communication channel from the common “shared” channel to dedicated channel “individual channel” based on the uplink and downlink interference amount). However, Wallentin fails to disclose a method and system for switching from common channel to individual channel based on interference and transmission power. In the same field of endeavor, the applicant admitted that a method and system for admission a call into a system based on the interference and transmission power (See Page 2, first para).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for admitting a call based on transmission power and interference as disclosed by the applicant into the system and method of Wallentin. The motivation would have been to utilize the system resource more efficiency.

6. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallentin in view of Kumar (USP 6418148).

Wallentin discloses when an admission of the shift is not possible as a result of the admission judgment for the shift from the common channel to the individual channel so that the communication is to be kept on the common channel (Fig 5, Ref 59 discloses the communication can not switch to the dedicated channel, the communication is to be kept on the common channel, See col. 6, line 61 to col. 7, line 9 and col. 12, lines 43-52). However, Wallentin fails to expressly disclose waiting a prescribed period of time for restarting an individual channel set up operation, which is determined according to a random number and different from the timing for retransmitting set up for other mobile radio terminals. Kumar

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discloses receiving a request for a supplemental channel, which is analogous to an individual channel, and if the request cannot be satisfied, the node that submitted the request is asked to resubmit its request after a random back-off period (col. 9, lines 4-19). Figure 3 shows that the back-off periods for different nodes may be set to the different periods of times. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to reject requests at the radio base station of Wallentin if no resources were available for a particular request, and to wait a random period of time before retrying. One of ordinary skill in the art would have been motivated to do this in order to assign the mobile radio terminal requesting an individual the necessary resources when they became available, and to limit contention between different mobile radio terminals that may request resources at the same time.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Soininen (USP 6434130) discloses a method and system for switching control method and apparatus for wireless communication.

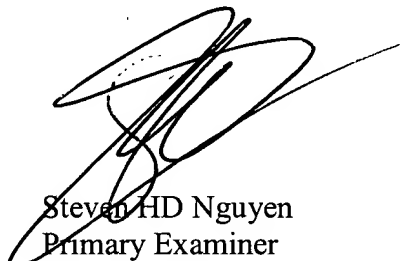
Wallentin (USP 6594238) discloses a method and apparatus for dynamically adapting a connection state in wireless system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven HD Nguyen  
Primary Examiner  
Art Unit 2665  
3/17/05